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NOTICE OF ALLOWANCE AND FEE(S) DUE

74548

7590

09/17/2009

FlashPoint Technology and Withrow & Terranova
100 Regency Forest Drive
Suite 160
Cary, NC 27518

EXAMINER

JABR, FADEY S

ART UNIT

PAPER NUMBER

3628

DATE MAILED: 09/17/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,751	10/27/2001	Vijay Vaidyanathan	1104-031	5799

TITLE OF INVENTION: DIGITAL FILE MARKETPLACE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	12/17/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE** OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
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P.O. Box 1450
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

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74548 7590 09/17/2009
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Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

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nonprovisional	NO	\$1510	\$300	\$0	\$1810	12/17/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
JABR, FADEY S	3628	705-001000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Vijay Vaidyanathan

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JABR, FADEY S

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Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1564 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1564 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/032,751

Applicant(s)

VAIDYANATHAN ET AL.

Examiner

FADEY S. JABR

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Board Decision filed 6/22/09.
2. ☒ The allowed claim(s) is/are 1-40.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Fadey S Jabr
Examiner
Art Unit: 3628

DETAILED ACTION

Prosecution History

Claims **1-40** have been Reverse by the Board of Patent Appeals and Interferences.

Allowable Subject Matter

1. Claims **1-40** are allowed over the prior art of record.
2. The following is an examiner's statement of reasons for allowance:
3. The claims are allowed for the reason set forth in the Board's decision found in the Board Decision filed 22 June 2009.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FADEY S. JABR whose telephone number is (571)272-1516. The examiner can normally be reached on Mon. - Fri. 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fadey S Jabr
Examiner
Art Unit 3628

FSJ

/F. S. J./
Examiner, Art Unit 3628

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628

EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Josephson on 3 September 2009.

In the Claims:

1. (Currently Amended) A method for providing an online digital marketplace, the digital marketplace having a plurality of digital files for access by consumers over a network, the method comprising the steps of:
- (a) allowing a content owner to post a file on the marketplace for access by users by,
 - (i) providing information about the file by a first computing device,
 - (ii) setting a retail price that users will be charged for downloading the file by the first computing device, and
 - (iii) setting a reseller commission for the file by the first computing device;
 - (b) allowing a first user to search for files posted on the digital marketplace for one to resell on a third party website;
 - (c) allowing a second user at a second computing device to search the files posted on the digital marketplace for one to download;
 - (d) if the second user selects a particular file to download, charging the user the retail price set for the file;

- (e) if the second user downloads the particular file from the third party website, paying the first user the reseller commission set for the file; and
- (f) paying the content owner a payment based on the retail price minus the reseller commission.

2. (Original) The method of claim 1 further including the step of:

- (g) allowing the content owner to monitor download statistics for the file the content owner posted and to change the retail price and the reseller commission for the file in real-time.

3. (Original) The method of claim 1 further including the step of:

- (g) generating revenue for the digital marketplace by subtracting a transaction fee from the payment made to the content owner.

4. (Previously Presented) The method of claim 1 wherein step (a) further includes the step of:

- (iv) allowing the content owner to set the retail price and the reseller commission both positively and negatively.

5. (Previously Presented) The method of claim 4 wherein step (a) further includes the step of:

- (v) requesting the content owner to choose pricing options for the file, including a subscription plan, a pay-per-download, and a publisher-sponsored download.

6. (Original) The method of claim 1 wherein step (b) further includes the step of:

- (i) requesting the first user to enter display options for the search.

7. (Original) The method of claim 6 wherein step (b)(i) further includes the step of:

- including as the display options showing free files, pay-per-download files, or files listed as resalable.

8. (Original) The method of claim 1 wherein step (b) further includes the step of:

(i) requesting the first user to enter sorting options for the search.

9. (Previously Presented) The method of claim 8 wherein step (b)(i) further includes the step of: including as the sorting options sorting the matching files by popularity, by date, by size, by price, and by the reseller commission.

10. (Original) The method of claim 3 further including the step ofⁿ implementing the digital marketplace as a website on a network.

11. (Original) The method of claim 3 further including the step of: implementing the digital marketplace as a peer-to-peer network.

12. (Original) A computer-readable medium containing program instructions for providing an online digital marketplace, the digital marketplace having a plurality of digital files for access by consumers over a network, the computer-readable medium comprising the instructions of:

(a) allowing a content owner to post a file on the marketplace for access by users by,

(i) providing information about the file,

(ii) setting a retail price that users will be charged for downloading the file,

and

(iii) setting a reseller commission for the file;

(b) allowing a first user to search for files posted on the digital marketplace for one to resell on a third party website;

(c) allowing a second user to search the files posted on the digital marketplace for one to download;

(d) if the second user selects a particular file to download, charging the user the retail price set for the file;

(e) if the second user downloads the particular file from the third party website, paying the first user the reseller commission set for the file; and

(f) paying the content owner a payment based on the retail price minus the reseller commission.

13. (Original) The computer-readable medium of claim 12 further including the instruction of:
(g) allowing the content owner to monitor download statistics for the file the content owner posted and to change the retail price and the reseller commission for the file in real-time.

14. (Previously Presented) The computer-readable medium of claim 12 further including the instruction of:
(g) generating revenue for the digital marketplace by subtracting a transaction fee from the payment made to the content owner.

15. (Previously Presented) The computer-readable medium of claim 12 wherein instruction (a) further includes the instruction of:
(iv) allowing the content owner to set the retail price and the reseller commission both positively and negatively.

16. (Previously Presented) The computer-readable medium of claim 15 wherein instruction (a) further includes the instruction of:
(v) requesting the content owner to choose pricing options for the file, including a subscription plan, a pay-per-download, and a publisher-sponsored download.

17. (Original) The computer-readable medium of claim 12 wherein instruction (b) further includes the instruction of:
(i) requesting the first user to enter display options for the search.

18. (Original) The computer-readable medium of claim 17 wherein instruction (b)(i) further includes the instruction of: including as the display options showing free files, pay-per-download files, or files listed as resalable.

19. (Original) The computer-readable medium of claim 12 wherein instruction (b) further

includes the instruction of:

(i) requesting the first user to enter sorting options for the search.

20. (Original) The computer-readable medium of claim 19 wherein instruction (b)(i) further includes the instruction of: including as the sorting options sorting the matching files by popularity, by date, by size, by price, and by the reseller commission.

21. (Original) The computer-readable medium of claim 14 further including the instruction of: implementing the digital marketplace as a website on a network.

22. (Original) The computer-readable medium of claim 21 further including the instruction of: implementing the digital marketplace as a peer-to-peer network.

23. (Currently Amended) A method for providing an online digital marketplace, the digital marketplace having a plurality of digital files for access by consumers over a network, the method comprising the steps of:

- (a) allowing a content owner to post a file on the marketplace for access by users by,
 - (i) providing information about the file by a first computing device,
 - (ii) setting a retail price that users will be charged for downloading the file by the first computing device, and
 - (iii) setting a reseller commission for the file by the first computing device,

wherein both the retail price and the reseller commission may be set positively and negatively;

(b) allowing a first user to search for files posted on the digital marketplace for one to resell on a third party website;

(c) allowing a second user at a second computing device to search the files posted on the digital marketplace for one to download;

(d) if the second user selects a particular file to download, charging the user the retail price set for the file;

(e) if the second user downloads the particular file from the third party website, paying the first user the reseller commission set for the file;

(f) paying the content owner a payment based on the retail price minus the reseller commission; and

(g) allowing the content owner to edit the file information and to change the retail price and the reseller commission in real-time.

24. (Original) The method of claim 23 further including the step of:

(h) generating revenue for the digital marketplace by subtracting a transaction fee from the payment made to the content owner.

25. (Previously Presented) The method of claim 24 wherein step (a) further includes the step of:

(iv) requesting the content owner to choose pricing options for the file, including a subscription plan, a pay-per-download, and a publisher-sponsored download.

26. (Original) The method of claim 25 wherein step (b) further includes the step of: (i) requesting the first user to enter display options for the search.

27. (Original) The method of claim 26 wherein step (b)(i) further includes the step of: including as the display options showing free files, pay-per-download files, or files listed as resalable.

28. (Previously Presented) The method of claim 23 wherein step (b) further includes the step of:

(i) requesting the first user to enter sorting options for the search.

29. (Original) The method of claim 28 wherein step (b)(i) further includes the step of: including as the sorting options sorting the matching files by popularity, by date, by size, by price, and by the reseller commission.

30. (Original) The method of claim 24 further including the step of implementing at least six pricing models for file downloads within the digital marketplace, including a pay-per-download

a model, a subscription model, a broadcast model, a private download model, a donation, and an infomercial model.

31. (Original) The method of claim 25 further including the step of: implementing the digital marketplace as a website on a network.

32. (Original) The method of claim 31 further including the step of: implementing the digital marketplace as a peer-to-peer network.

33. (Currently Amended) A computer-readable medium containing program instructions for providing an online digital marketplace, the digital marketplace having a plurality of digital files for access by consumers over a network, the computer-readable medium comprising the instructions of:

- (a) allowing a content owner to post a file on the marketplace for access by users by,
 - (i) providing information about the file,
 - (ii) setting a retail price that users will be charged for downloading the file,and
 - (iii) setting a reseller commission for the file, wherein both the retail price and the reseller commission may be set positively and negatively;
- (b) allowing a first user to search for files posted on the digital marketplace for one to resell on a third party website;
- (c) allowing a second user to search the files posted on the digital marketplace for one to download;
- (d) if the second user selects a particular file to download, charging the user the retail price set for the file;
- (e) if the second user downloads the particular file from the third party website, paying the first user the reseller commission set for the file;
- (f) paying the content owner a payment based on the retail price minus the reseller commission;
- and
- (g) allowing the content owner to edit the file information and to change the retail price and the reseller commission in real-time.

34. (Previously Presented) The computer-readable medium of claim 33 further including the instruction of:

(h) generating revenue for the digital marketplace by subtracting a transaction fee from the payment made to the content owner.

35. (Previously Presented) The computer-readable medium of claim 34 wherein instruction (a) further includes the instruction of:

(iv) requesting the content owner to choose pricing options for the file, including a subscription plan, a pay-per-download, and a publisher-sponsored download.

36. (Original) The computer-readable medium of claim 35 wherein instruction (b) further includes the instruction of:

(i) requesting the first user to enter display options for the search.

37. (Previously Presented) The computer-readable medium of claim 36 wherein instruction (b)(i) further includes the instruction of: including as the display options showing free files, pay-per-download files, or files listed as resalable.

38. (Original) The computer-readable medium of claim 37 wherein instruction (b) further includes the instruction of:

(i) requesting the first user to enter sorting options for the search.

39. (Original) The computer-readable medium of claim 34 wherein instruction (b)(i) further includes the instruction of: including as the sorting options sorting the matching files by popularity, by date, by size, by price, and by the reseller commission.

40. (Original) The computer-readable medium of claim 39 further including the instruction of: implementing at least six pricing models for file downloads within the digital marketplace,

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including a pay-per-download a model, a subscription model, a broadcast model, a private download model, a donation, and an infomercial model.